

# Notice of Allowability

Application No.

09/876,445

Examiner

Qamrun Nahar

Applicant(s)

LEE ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the after final response filed on 1/6/05.
2. ☒ The allowed claim(s) is/are 1-5 and 7-11, renumbered 1-10.
3. ☒ The drawings filed on 07 June 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

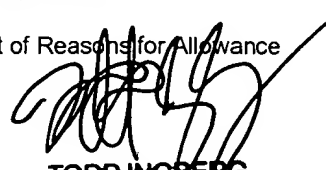
\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
TODD INGBERG  
PRIMARY EXAMINER

### **DETAILED ACTION**

1. This action is in response to the after final response filed on 1/6/05.
2. The rejection under 35 U.S.C. 103(a) as being unpatentable over Kravitz (U.S. 6,397,385) in view of Sten (U.S. 6,668,374) to claims 1, 4-5, 7 and 10-11 is withdrawn in view of applicant's remarks/arguments.
3. The rejection under 35 U.S.C. 103(a) as being unpatentable over Kravitz (U.S. 6,397,385) in view of Gross (U.S. 5,964,874) to claims 2 and 8 is withdrawn in view of applicant's remarks/arguments.
4. The rejection under 35 U.S.C. 103(a) as being unpatentable over Kravitz (U.S. 6,397,385) in view of Rohrer (U.S. 5,313,398) to claims 3 and 9 is withdrawn in view of applicant's remarks/arguments.
5. Claims 1-5 and 7-11 are pending.
6. Claims 1-5 and 7-11 are allowed, renumbered 1-10.

### **REASONS FOR ALLOWANCE**

7. The following is an examiner's statement of reasons for allowance:

The cited prior art taken alone or in combination fail to teach, in combination with the other claimed limitations, upgrading the computer system within the uninterrupted idle state with a firmware upgrade or a hardware upgrade to provide an upgraded computer system while accumulating a series of buffered incoming requests as recited in independent claims 1 and 7; providing a computer system operated within a facility selected from the group consisting of chemical fabrication facilities, mechanical fabrication facilities and electrical fabrication

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facilities, the computer system having associated therewith an upgrade management utility, the upgrade management utility providing for a buffering of a series of incoming requests to the computer system when upgrading the computer system while operating the computer system, to thus provide an uninterrupted idle state when upgrading the computer system when operating the computer system as recited in independent claims 2 and 8; and providing a computer system operated within a microelectronic fabrication facility, the computer system having associated therewith an upgrade management utility, the upgrade management utility providing for a buffering of a series of incoming requests to the computer system when upgrading the computer system while operating the computer system, to thus provide an uninterrupted idle state when upgrading the computer system when operating the computer system as recited in independent claims 3 and 9.

The closest cited prior arts, Kravitz (U.S. 6,397,385) teaches a method and apparatus for upgrading software on a continuously running system, while the system is operating. Sten (U.S. 6,668,374) teaches upgrading firmware. Gross (U.S. 5,964,874) teaches that the computer system is operated within a facility selected from the group consisting of chemical fabrication facilities, mechanical fabrication facilities and electrical fabrication facilities. Rohrer (U.S. 5,313,398) teaches that the computer system is operated within a microelectronic fabrication facility. However, the combination of Kravitz (U.S. 6,397,385) and Sten (U.S. 6,668,374) fails to teach upgrading the computer system within the uninterrupted idle state with a firmware upgrade or a hardware upgrade to provide an upgraded computer system while accumulating a series of buffered incoming requests as recited in independent claims 1 and 7; the combination of Kravitz (U.S. 6,397,385) and Gross (U.S. 5,964,874) fails to teach providing a computer system

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operated within a facility selected from the group consisting of chemical fabrication facilities, mechanical fabrication facilities and electrical fabrication facilities, the computer system having associated therewith an upgrade management utility, the upgrade management utility providing for a buffering of a series of incoming requests to the computer system when upgrading the computer system while operating the computer system, to thus provide an uninterrupted idle state when upgrading the computer system when operating the computer system as recited in independent claims 2 and 8; the combination of Kravitz (U.S. 6,397,385) and Rohrer (U.S. 5,313,398) fails to teach providing a computer system operated within a microelectronic fabrication facility, the computer system having associated therewith an upgrade management utility, the upgrade management utility providing for a buffering of a series of incoming requests to the computer system when upgrading the computer system while operating the computer system, to thus provide an uninterrupted idle state when upgrading the computer system when operating the computer system as recited in independent claims 3 and 9; and as pointed out by the applicant's remarks/arguments on pg. 7, par. 1 to pg. 8, par. 2; pg. 9, par. 2 to pg. 11, par. 2; and pg. 12, par. 1 to par. 4.

Furthermore, applicant pointed out in the remarks/arguments, pg. 7, par. 3, an upgrade to a continuously operating computer system is time inefficient upgrade. One of ordinary skill in the art would not be motivated to upgrade while continuously operating the computer system. Therefore, it is a counterintuitive allowance.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

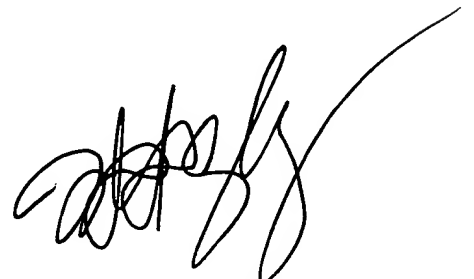
8. Any inquiry concerning this communication from the examiner should be directed to Qamrun Nahar whose telephone number is (571) 272-3730. The examiner can normally be reached on Mondays through Fridays from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached on (571) 272-3695. The fax phone number for the organization where this application or processing is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Qamrun Nahar  
March 30, 2005



**TODD INGBERG  
PRIMARY EXAMINER**